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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,520	07/10/2001	Jose' C. Brustoloni		7438

7590

03/24/2005

Docket Administrator
Lucent Technologies Inc.
Room 3J-219
101 Crawfords Corner Rd.
Holmdel, NJ 07733-3030

EXAMINER

ANANTHANARAYANAN, RAMYA

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,520

Applicant(s)

BRUSTOLONI, JOSE' C.

Examiner

Ramya Ananthanarayanan

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 10, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 2, 5, 19 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6-18, 20, 21 and 23-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments, see page 11, lines 1-3, filed Feb 10, 2005, with respect to the abstract have been fully considered and are persuasive. The objection to the abstract has been withdrawn.
2. Applicant's arguments, see page 11, lines 3-6, filed Feb. 10, 2005, with respect to the disclosure have been fully considered and are persuasive. The objection to the disclosure has been withdrawn.
3. Applicant's arguments, see page 12, lines 3-14, filed Feb. 10, 2005, with respect to the rejection of claims 1 and 18 using the Birrell patent have been fully considered and are persuasive. The rejection of claims 1 and 18 with respect to this patent has been withdrawn. Additionally, the rejection of claims 13 and 30 which also use the Birrell patent in a combination with Capurka et al. have also been withdrawn. However, upon further consideration, a new ground of rejection is presented for claims 13 and 30. This new grounds of rejection will be presented with the treatment of the examiner's response to applicant's arguments concerning the rejection due to the Bendinelli patent.
4. Applicant's arguments, see page 12, lines 23-31 and page 13, lines 1-2, filed Feb. 10, 2005, with respect to the rejection of claims 1 and 18 using the Brustoloni publication have been fully considered and are persuasive. The rejection of claims 1 and 18 with respect to this publication has been withdrawn.

Art Unit: 2131

5. Applicant's arguments, filed Feb. 10, 2005, with respect to the Bendinelli publication, have been fully considered but they are not persuasive.

6. Applicant argues on page 12, lines 15-16, that the Bendinelli publication does not disclose a tunnel between two endpoints, but rather discloses a tunnel between two gateways. There has been no distinction as to a gateway or an endpoint in the claims, such that a gateway as described in the Bendinelli publication could not be considered as an endpoint. Further, no such distinction has been brought forth in applicant's specification. Thus, the argument is considered moot.

7. Applicant also argues on page 12, lines 17-22 that the Bendinelli publication does not clearly anticipate applicant's amended claims 1 and 18. However, the examiner finds this argument to be moot as well after considering the disclosure of the Bendinelli publication. Examiner sets forth a rejection of amended claims 1 and 18 under U.S.C. 102 (e) as anticipated by Bendinelli (U.S. Publication 2002/0029276). Examiner also sets forth a new ground of rejection of claims 13 and 30 under U.S.C. 103(a) as unpatentable over Bendinelli et al. (U.S. Publication 2002/0029276) in view of Capurka et al. (U. S. Patent 6,678,258).

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2131

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by

Bendinelli et al. (U.S. Publication 2002/0029276).

10. With respect to claims 1 and 18, Bendinelli et al. disclose a method in program code used with a computer readable media (paragraphs 0019 and 0020) comprising:

After a secure tunnel

(In paragraph 0180 line 12, Bendinelli discloses that the tunnel uses the IPSEC security protocol, meaning that the tunnel is secure.)

has been created between a first endpoint and a second endpoint on a packet network

(In paragraph 0138, Bendinelli discloses that after the tunnels are created, encryption algorithms and authentication algorithms are negotiated. In paragraph 0245, Bendinelli then discloses that one of these algorithms is SSL.)

which tunnel traverses at least one network address translator (NAT) that implements a heuristic methodology in translating addresses and/or port numbers

(paragraph 0141, lines 5-13; In the third paragraph of the Linux VPN Masquerade website admitted as prior art by applicant, it states that VPN Masquerade is a part of IP Masquerade which enables to use IPSec-based VPN clients. In paragraph 0141, lines 14-17, Bendinelli discloses that IP Masquerade will be facilitated for use with NAT, after disclosing an environment using VPN and IPSec.),

Art Unit: 2131

and which tunnel is operating under a secure protocol that is independent of whatever applications are running on the first and second endpoints

(In paragraph 0180 line 12, Bendinelli discloses that the tunnel uses the IPSEC security protocol.)

and before one or more packets containing application data are sent between the first and second endpoints, sending a control packet from the first endpoint of the tunnel through the tunnel to the second endpoint of the tunnel; and

Waiting at the first endpoint for a responsive control packet through the tunnel from the second endpoint before sending packets containing application data through the tunnel.

(Bendinelli discloses that his method utilizes the SSL (Secure Sockets Layer) protocol handshake [Paragraph 0245, line 7] in which the client sends a control message to the server and after receiving the message the server responds. This send and response of control packets continue in a specific manner as detailed in the SSL Version 3 specification and then the client and server have completed the handshake and may send data packets. An overview of the handshake protocol can be found in Section 5.5.)

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2131

12. Claims 13 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bendinelli et al. (U. S. Publication 2002/0029276) as applied to claims 1 and 18 above, and further in view of Capurka et al. (U. S. Patent 6,678,258).

13. Bendinelli et al. and Capurka et al. are analogous art because both deal with the field of packet data communication systems.

14. With respect to claims 13 and 30, Bendinelli et al. did not disclose the method in computer readable medium wherein if the first endpoint does not receive any packets through the tunnel for a predetermined time interval then the first endpoint sends through the tunnel a control packet to the second endpoint.

Capurka et al. further disclose the method in computer readable medium (column 3, lines 48-53) wherein if the first endpoint does not receive any packets through the tunnel for a predetermined time interval then the first endpoint sends through the tunnel a control packet to the second endpoint (column 2, lines 65-67 to column 3, line 1).

15. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of Bendinelli et al. with the method of Capurka et al. in order to provide a more inexpensive and efficient recovery method (column 1, lines 49-52).

16. The rejections of claims 3, 4, 6-12, 14-18, 20, 21, 23-29, 31-34 are maintained as set forth in the previous action issued by the examiner.

Art Unit: 2131

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramya Ananthanarayanan whose telephone number is (571) 272-5860. The examiner can normally be reached on Monday through Friday, 8:30 -5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2131

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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